

**STILL NO BUDGET!**

Today marks the 54<sup>th</sup> day that California is without a budget for fiscal year 2002-03.

Yesterday, Assembly Republicans urged both the Governor and Democrat legislators to support legislation they are introducing today to provide emergency payments for services to disabled people, college grants, and some state vendors. So far the Democrats have rejected the Republican proposal.

To make things even worse, there is a good possibility that the Senate will adjourn on next Friday or Saturday – the last day to pass regular bills. This could mean that the Assembly will still be in session trying to pass a budget sometime in September while many Senators and Senate staff are on vacation.

**VERY BUSY INSIDE THE CAPITOL**

A lot of non-budget activity took place this week. Although the Senate recessed for the weekend, the Assembly had floor sessions scheduled all three days. Policy and fiscal committees met this week and they will continue to meet next week. The deadline for policy committees to meet was almost two months ago, and fiscal committees were supposed to stop meeting two weeks ago. In addition to the many committee meetings going on, last minute attempts to create important (and controversial!) bills will take place in the Capitol during the last week of the session. For example, brand new bills and/or “resurrections” of inactive bills, pertaining to such diverse issues as corporate disclosure, shareholder protection, energy, lobbying reform, privacy, Wal-Mart getting into banking, etc. will receive much attention next week.

**STATE BAR BILLS SENT TO GOVERNOR**

Urgency legislation by Senator [Sheila Kuehl](#) ([SB 1897](#)) to address an immediate concern related to failed takers of the July Bar Examination and to make possible the independence of the Conference of Delegates – along with the Bar-supported measure to increase the penalties for the unauthorized practice of law by non-lawyers ([SB](#)

[1459](#) – [Romero](#)) – were sent to Governor Davis this week.

SB 1897, which passed the Assembly 72-4 and the Senate 39-0, would create an immediate one-year exemption to the right of failed applicants for the General Bar Examination to view examination booklets for the Multistate Bar Exam. This change became necessary due to the recent decision of the National Conference of Bar Examiners, which produces the Multistate, to no longer provide examination materials to California for this purpose.

The Bar-sponsored bill also authorizes the Bar to collect voluntary fees on behalf of an independent successor entity to the Conference of Delegates, an agreed-to precondition of the formation of that entity, and makes several other non-controversial changes relating to the internal operations of the State Bar.

SB 1459, the measure inspired by State Bar President Karen Nobumoto and supported by a host of minority bar associations statewide, as well as the Los Angeles County District Attorney's Office and the California District Attorneys' Association, was sent to the Governor on a vote of 77-0 in the Assembly. The Senate in May approved the bill on a 27-7 vote.

**GOVERNMENT ATTORNEY WHISTLEBLOWER  
BILL ACCORD REACHED**

Assembly Member [Darrell Steinberg](#) and the Department of Justice have reached agreement on amendments to Steinberg's “Public Attorney Whistleblower” bill ([AB 363](#)), removing the last major opposition to the measure.

As amended, AB 363 would continue to specify steps that an attorney representing a governmental agency must take before he or she could reveal confidential client information concerning improper governmental activity to a law enforcement agency or other governmental agency charged with overseeing or regulating the matter without fear of disbarment or other attorney discipline. The amendments narrow the type of improper governmental activity that would trigger the exemption to the use of the

organization's official authority or influence to commit a crime or perpetrate fraud, and sets out several examples of the type of activity that would qualify.

Steinberg introduced AB 363 in 2001 in response to the problems faced by Department of Insurance attorney Cindy Ossais when she sought to bring to light improper activities in the department that eventually led to a legislative investigation and the resignation of then-Commissioner Chuck Quackenbush.

#### **JUDGESHIP BILL CONVERTED TO LEGAL DOCUMENT ASSISTANT MEASURE**

A measure that would have permitted the judiciary to convert 10 court commissioner positions to judgeships per year has fallen victim to the state's fiscal woes, and it was converted to a measure to maintain and improve the current law regulating Legal Document Assistants.

[AB 1698](#) was introduced at the request of the Judicial Council to help courts achieve an appropriate balance between judges and subordinate judicial officers (SJO), noting that SJOs act as temporary superior court judges so often that, in many courts, they have essentially become judges by another name. However, problems arose concerning the details of conversion which, combined with the even relatively minor cost of the measure, resulted in its demise for the year.

The replacement language proposes to eliminate the sunset clause – scheduled to take effect at the end of this year – for the Legal Document Assistant Act (LDAA) enacted in 1998 through SB 1418 (Rosenthal), the goal of which was to protect consumers from unscrupulous providers by establishing a local registration system and by regulating the services that can legally be offered.

The Judicial Council commissioned Professor Clark Kelso of McGeorge School of Law to conduct a study of the effectiveness of and problems encountered with the LDAA during its three years of effectiveness. The study recommended certain changes in the act, principally relating to advertising by LDA's. Further recommendations were made by Departments of Justice and

Consumer Affairs, several of which were agreed to by a working group established by the Judicial Council, including representatives of the State Bar.

#### **OPEN GOVERNMENT AMENDMENT REVIVAL EFFORT**

Although the deadline for placing measures on the November ballot has long passed, there has been a lot of activity in the past week concerning [SCA 7](#) by Senate President pro Tem [John Burton](#), the co-called "Open Government Sunshine Act" sponsored by the First Amendment Coalition and the California Newspaper Publishers Association. As currently drafted, SCA 7 would establish in the state Constitution a fundamental right for people to scrutinize what their government is doing and contribute their ideas to the process of policy-making, and greatly reducing the circumstances under which governmental agencies could withhold information or governmental bodies meet in closed session.

After languishing in the Assembly Rules Committee since it was approved by the Senate in late June, and seemingly forgotten, SCA 7 was suddenly referred to an Assembly policy committee on Monday, August 19 and a rule waiver requested to hear the bill. However, the waiver (which requires a 2/3 vote of the house) was denied by the Assembly Republicans, whose spokesman remarked, "Why do we need a hearing now? This can't go on the ballot until 2004."

Notwithstanding the rebuff, negotiations and drafting continue on the issue. Because of strong opposition from governmental agencies, which was expected -- and from business interests, which was not -- the sponsors are reportedly working with the Department of Justice to develop a revised proposal which would be similar to [SB 48](#) (Sher) of 1999, which passed both houses of the Legislature unanimously, but was vetoed by Governor Davis. That bill would have created a procedure for appealing a denial by a public agency of a written request for disclosure of information to the Attorney General (in addition to a court suit, available under current law), and set up the timelines for the Attorney General to respond and for further appeal to the court.